

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**FREDERICK W. THORNTON,
APPELLANT
vs.**

**STATE OF MISSOURI,
RESPONDENT**

DOCKET NUMBER WD76734

DATE: DECEMBER 2, 2014

Appeal from:

The Circuit Court of Dekalb County, Missouri
The Honorable Thomas Nichols Chapman, Judge

Appellate Judges:

Special Division: Zel Fischer, Special Judge Presiding, Joseph M. Ellis, Judge and Victor
C. Howard, Judge

Attorneys:

Damien De Loyola, for Appellant

Gregory L. Barnes, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

FREDERICK W. THORNTON, APPELLANT

v.

STATE OF MISSOURI, RESPONDENT

WD76734

Dekalb County, Missouri

Before Special Division: Zel Fischer, Special Judge Presiding, Joseph M. Ellis, Judge and Victor C. Howard, Judge

Frederick Thornton appeals from the judgment of the motion court denying his Rule 24.035 motion for postconviction relief following an evidentiary hearing. Thornton pleaded guilty to second degree felony murder and driving while intoxicated as an aggravated offender pursuant to a plea agreement with the prosecutor, and he was sentenced to a longer sentence than the prosecutor had recommended. Thornton sought to vacate his convictions and sentences arguing that plea counsel was ineffective for affirmatively misadvising him that he would not receive a sentence longer than the prosecutor's recommendation and that if he did, he could withdraw his guilty plea. He raises six points on appeal challenging the motion court's denial of his motion. The judgment is affirmed.

AFFIRMED.

Division Two holds:

Even assuming plea counsel misadvised Thornton that he would not receive a sentence longer than the prosecutor's recommendation and that if he did, he could withdraw his guilty plea, the record refutes any claim that Thornton was prejudiced because the plea court provided admonishments that corrected the advice of counsel and Thornton expressed an understanding of those admonishments. The motion court, therefore, did not clearly err in denying Thornton's Rule 24.035 motion for postconviction relief.

Opinion by: Victor C. Howard, Judge

Date: December 2, 2014

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